IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Crl.MC.No. 2182 of 2007()

CC.100/2007 of JUDL.MAGISTRATE OF FIRST CLASS-II, CHERTHALA

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PETITIONER:

AJITH KUMAR, AGED 37 YEARS,
S/O. ANANDAN, NANGACHI VEEDU, CHERTHALA SOUTH PO.,
CHERTHALA.

BY ADV. SRI.GRASHIOUS KURIAKOSE
SRI.B.PRAMOD

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUDHADEVI, AGED 33 YEARS,
D/O. SADASIVAN PILLAI, 'ASWATHY',
ASRAMOM WARD, ALAPPUZHA, NOW RESIDING AT
NANGACHIVEEDU, CHERTHALA SOUTH, CHERTHALA,
ALAPPUZHA DISTRICT.

BY ADV. SRI.GEORGE SEBASTIAN
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2182 of 2007

Dated this the 6th day of July 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 498A I.P.C. Final report has been filed. Cognizance has already been taken. Proceedings are initiated on the basis of the grievance raised by the second respondent - wife of the petitioner. The petitioner has appeared before the learned Magistrate.

2. The petitioner and the second respondent has together come before this court to report that the matter has been settled. The second petitioner has compounded the offence committed by the petitioner. The parties have settled their disputes and are living harmoniously now. In as much as all their disputes have been settled and they have resumed harmonious co-habitation, this prosecution is remaining as an unnecessary irritant in their harmonious relationship. It is therefore prayed that powers under Section 482 Cr.P.C may be invoked and the prosecution may be quashed.

3. The second respondent has entered appearance. He has filed an affidavit. The learned counsel for the respondent vouches for the signature of the respondent in the affidavit. The

matter has been settled between the parties. I am satisfied that, if legally permissible, composition can be accepted.

4. But the offence under Section 498A I.P.C is not compoundable under Section 320 Cr.P.C. The learned counsel, in these circumstances, relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may at times transcend the interests of mere law and in such circumstances the stipulations under Section 320 Cr.P.C cannot fetter the invocation of the powers under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C must be invoked to bring to premature termination the proceedings which has now become unnecessary.

5. In the result, this petition is allowed. C.C.No.100/2007 pending before the Judicial First Class Magistrate Court-II, Cherthala against the petitioner is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007